THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 30203 OF 1997

DATE: 3-4-2007

Between:

A.Ashok Kumar … Petitioner

And

1. The A.P.S.R.T.C
rep. By its Managing Director,
Hyderabad and 2 others … Respondents

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 30203 OF 1997

ORDER:

Seeking to have the order of the 2nd respondent dated 18.10.1993 quashed, the present writ petition is filed.

Facts in brief are that the petitioner was working as a Conductor in a SETWIN Mini Bus from August, 1980 till November, 1981. His services were terminated on 6.11.1981 as the bus bearing No.8796 in which he was working was released in favour of entrepreneurs, for independent operation on self-employment basis, pursuant to the Circular dated 19.1.1992 issued by the SETWIN authorities. The petitioner would contend that all the staff in the section and the drivers and conductors have been employed in the A.P.S.R.T.C. provided they worked in Maxi Buses and, in so far as Mini Buses are concerned all the staff have been taken into the service of A.P.S.R.T.C. and provided a suitable job except the drivers and, instead of taking them into service in the APSRTC, they were made owners of the mini buses which belong to SETWIN. According to the petitioner it is only conductors who have been denied employment on the ground that SETWIN was not providing employment to conductors working on maxi buses as they were under hire with APSRTC. Aggrieved thereby, the petitioner approached this Court earlier in W.P.419 of 1990 which was disposed of directing the respondent to consider the case of the petitioners as per rules and regulations governing the field. Pursuant thereto, the petitioner approached the respondents and, by proceedings dated 18.10.1993, he was informed that according to G.O.Ms.No.473 dated 28.7.1992, APSRTC had to absorb all original entrepreneurs, substituted

entrepreneurs and supporting staff in suitable positions subject to suitability from amongst the list of candidates furnished by SETWIN and, since the category of conductors was not included in the list of supporting staff and SETWIN could not provide employment to any conductors on maxi buses as long as they were under hire with APSRTC, the case of the petitioners for appointment to the post of conductor in APSRTC was rejected.

Sri S.Rajeswar Reddy, learned counsel for the petitioner would contend that non-absorption of conductors of SETWIN buses in APSRTC is arbitrary, illegal and in violation of the equality clause enshrined under Article 14 of the Constitution of India. It is necessary to note that the petitioner can at best seek parity with other conductors of SETWIN. In the counter affidavit, filed on behalf of the respondents, it is specifically stated that as per G.O.Ms.No.473 dated 28.7.1982, all staff working in SETWIN were directed to be absorbed in suitable posts except for conductors. In the absence of a specific assertion by the respondents that conductors, working in SETWIN, have not been absorbed in APSRTC, the petitioner's plea of discrimination must fail in as much he can seek parity only with other conductors and not with drivers and other supporting staff who had worked earlier in SETWIN. The contention of violation of Article 14 of the Constitution of India must necessarily fail.

The validity G.O.Ms.No.473 dated 28.7.1982 does not necessitate examination in the absence of a specific challenge thereto in the writ petition. Sri S.Rajeswar Reddy, learned counsel for the petitioner, would place reliance on an order of this Court in

W.P.3425 of 1989 dated 16.8.1989, wherein it was held thus:-

"……The two petitioners herein were formerly in the employment of a State aided Organisation called "SETWIN". After they served for a period of two years, they are retrenched in 1980 and 1982 as a consequence of the transfer of the operation of certain vehicles from the control of SETWIN to the A.P. State Road Transport Corporation. Thereafter, the petitioners made representations to the Road Transport Corporation on several occasions, the last being in June, 1988, but to no avail. Therefore, they filed the present writ petition seeking a mandamus directing the respondents to consider their cases for regular appointment as conductors.

It appears there are certain circular instructions/orders governing the preference to be given to displaed employees in the matter of appointment to posts in the Road Transport Corporation. In the circumstance the Regional Manager (B.R) APSRTC, Mushirabad, Hyderabad, the 2nd respondent, is directed to consider the claims of the petitioners in accordance with the existing circulars/orders for appointment as conductors and pass orders as early as possible, in any event not later than ten week from the date of receipt of this order. To avoid further delay the petitioners are directed to submit a copy of the application which they presented in June 1938 to the 2nd respondent within one week from today……."

This Court had merely directed that the claim of the petitioner be considered in as much as his case had not been considered earlier. In fact similar directions, as in W.P.3425 of 1989 dated 16.8.1989, were passed by this Court in W.P.419 of 1990 filed by the petitioner himself and it is pursuant thereto that his case was considered and the impugned order passed. The petitioner's case was considered and rejected by order dated 18.10.1993 and, as the said order is legal and valid, the question of directing the respondents to consider the case of the petitioner all over again does not arise.

The writ petition is accordingly dismissed. However, in the circumstances, without costs.

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3-4-2007

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